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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,118	06/26/2003	Ray D. Heineman	47320.0128	1117
20874	7590	07/12/2006	EXAMINER	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			CHEN, TIANJIE	
			ART UNIT	PAPER NUMBER
			2627	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/604,118	HEINEMAN ET AL
Examiner	Art Unit	
Tianjie Chen	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 March 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-58 is/are pending in the application.

4a) Of the above claim(s) 2-6 and 12-55 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 56-58 is/are rejected.

7) Claim(s) 7-11 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Final Rejection

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 56 recites the limitation "said robotic magazine transport device" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

2. Claim 57 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 56. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 56, 57, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidano et al (US 5,442,500) in view of Dimitri (US 5,818,723).

Claim 1, Hidano et al shows a magazine-based data cartridge library in Fig. 2 including: a cabinet 3; a shelf system 2b, located within the cabinet, for supporting at least two data cartridge magazines 30 and including at least one shelf; a drive 95 that is located within the cabinet; a magazine transport device 52, located within the cabinet, for moving a data cartridge magazine within a portion of an interior volume defined by the cabinet; a cartridge transport device, located within the cabinet, for moving a data cartridge 10 between a data cartridge magazine and the drive (Column 4, lines 25-31); and an entry/exit port 51 for conveying a data cartridge magazine between an environment that is exterior to the cabinet and a space that is interior to the cabinet; wherein the space is accessible to the magazine transport device.

Hidano et al does not show that the magazine transport device moves the data cartridge magazine within a portion of an interior volume defined by the cabinet; and the magazine transport device so that the magazine transport device can move a data cartridge magazine between the space and the shelf of the shelf system.

Dimitri shows a busy clusters and not so busy clusters and a magazine transport device 110 moves the data cartridge magazine within a portion of an interior volume defined by the cabinet; and the magazine transport device so that the magazine transport device can move a data cartridge magazine between the space and the shelf of the shelf system; and teaches that the transport device can move the magazines between the clusters to speed up processing (Column 2, lines 28-41). One of ordinary skill in the art would have been modify the magazine transport device as taught by Dimitri to speed up processing.

Claim 56, the above constructed device is a magazine-based data cartridge library including: a cabinet defining an interior space; a shelf system in the interior space adapted to support at least a first and second data cartridge magazine; at least a first drive in the interior space adapted to read and write data on a data cartridge; a magazine transport device capable of transporting within the interior space one of the magazines from the shelf system to a position for a cartridge transport to move at least one data cartridge from the data cartridge magazine to a cooperating relationship with the first drive; and an entry/exit port capable of receiving one of the magazines from outside the interior space wherein the magazine transport device is capable of moving the magazine within the interior space to the shelf system.

Claim 57, in above constructed device, the magazine transport device is inherently robotic.

Claim 58, the above constructed device, is a magazine-based data cartridge library including: a cabinet defining an interior space; a shelf system adapted to support at least a first and second data cartridge; at least a first drive adapted to read and write data to and from data cartridge; and an entry/exit port capable of receiving one of the magazines into the interior space from outside the interior space wherein the magazine is movable within the interior space to the shelf system by a magazine transport device confined to the interior space.

Allowable Subject Matter

4. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- Claim 7, as the closest reference, Hidano et al (US 5,442,500) a magazine-based data cartridge library including: a cabinet; at least two data cartridge magazines; a magazine transport device, an entry/exit port for conveying a data cartridge magazine between an environment that is exterior to the cabinet and a space that is interior to the cabinet; the entry/exit port includes a tray; wherein the tray is comprised of a planar surface; **but fails to show** a first end surface that is operatively connected to the planar surface and extends away from the planar surface, a second end surface, and means for allowing the second end surface to move between: (a) a first position that is **in opposition** to the first end surface to prevent movement of a data cartridge magazine in a direction with a component transverse to the first and second end surfaces, and (b) a second position that is **not in opposition** to the first surface so that a data cartridge magazine can be moved in a direction with a component transverse to the first and second end surfaces.
- Applicant asserts that movable end wall (first surface) is comprised of an S-shaped member that is pivotally attached to brackets as shown in Fig. 18C, to prevent a magazine from entering the operational space of the magazine transport and cartridge transport in an uncontrolled fashion. Moving S-shaped member into the second position so that the magazine transport either remove a magazine from the tray or associate a magazine with the tray ([0121]).

Response to Arguments

5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen, Tianjie
TIANJIE CHEN
PRIMARY EXAMINER